

AMCP, INC.,	:	IN THE COURT OF COMMON PLEAS OF
	:	LYCOMING COUNTY, PENNSYLVANIA
Plaintiff	:	JURY TRIAL DEMANDED
	:	
vs.	:	NO. 00-01,215
	:	
R. B. INDUSTRIES, INC.,	:	CIVIL ACTION - LAW
	:	MOTION FOR PARTIAL JUDGMENT
Defendant	:	ON THE PLEADINGS

Date: February 20, 2001

OPINION AND ORDER

BEFORE THE COURT is Plaintiff's Motion for Partial Judgment on the Pleadings. For reasons set forth in this opinion and order, Plaintiff's motion is granted.

Facts

The Complaint, Answer, and various motions¹ reveal that the factual basis of this case is not in dispute. On August 1, 1995, Plaintiff owned the real property at RD #2 Box 5, Industrial Parkway, Muncy Industrial Park and leased it to Defendant under a Lease Agreement of the same date. Pursuant to the Lease Agreement, Defendant leased Plaintiff's property for a term on one year commencing on August 1, 1995 at a monthly rental payment of \$2000.00 payable on the first day of every month. Defendant took possession of the property on August 16, 1995. In 1996, the parties extended the lease for a one year term. On January 23, 1998, the parties again extended the Lease Agreement through an Agreement for Sale of

¹ The procedural history of this case has been fairly straightforward. On July 28, 2000, Plaintiffs filed their Complaint. On September 13, 2000, Defendants filed their Answer. On November 21, 2000, Plaintiffs filed a Motion for Judgment on the Pleadings. On November 30, 2000, Plaintiffs filed an Amended Motion for Judgment on the Pleadings. On December 7, 2000, Defendants filed a Response to Plaintiff's Amended Motion for Partial Judgment on the Pleadings.

Real Estate. The Defendant purchased the property in October 1999. Defendant admits owing the Plaintiff \$36,000.00 in rent.²

Discussion

The weight of authority seems to be on the side of Plaintiff. Pa. R.C.P.1037 (c) provides that “in all cases, the court, on motion of a party may enter an appropriate judgment against a party upon default or *admission* [emphasis added].” The *Kappe* case holds that a partial judgment on the pleadings may be properly entered “only if the defendant’s answer unequivocally and unqualifiedly admits that a portion of the claim is due.” *Kappe Associates, Inc. v. Aetna Casualty & Surety Co.*, 341 A.2d 516, 518 (Pa. Super 1975). While there does not appear to be any serious dispute that a partial judgment on the pleadings is permissible, the issue is whether it is proper in this case. Upon examination, the Court answers this question in the affirmative.

As Plaintiff points out, in ¶13 of his Answer, Defendant “admits owing Plaintiff the sum of \$36,000.00 for back rent as set out in New Matter below.” In ¶14 Defendant “admits owing \$36,000.00 as set forth below in New Matter.” In ¶9 of the New Matter, Defendant “admits owing for the following months (*See* FN 2).” Finally, in ¶10 of the New Matter, Defendant writes, “the total amount owed by Defendant to Plaintiff is \$36,000.00.”

² There is some confusion concerning precisely which month’s rent are owed. In the Complaint, Plaintiff avers that rent is owed for September and October, 1996; March, April, July-December 1997; January-December, 1998; and January-October 1999. In his Answer, Defendant states “it is admitted that the Defendant did not pay rent in the months indicated. It is further admitted that the Defendant owes rent for some of these months but does not owe rent for any months after July 1, 1998 as set forth in the New Matter below.” In the New Matter, Defendant admits owing rent for the following months: April, September, and November 1996; January, March, May, July, September, October, November, and December 1997; January through July 1998.

The specificity and clarity of these pleadings leads this Court to conclude that there is nothing equivocal or qualified about these statements. Furthermore, the fact that Defendant repeatedly made the statements without any provocation, leads the Court to conclude that Defendant does indeed owe Plaintiff the sum of \$36,000.00

Defendant argues that unless the averment in the Complaint requires a responsive pleading, the response can be characterized as a statement of law rather than an admission. In general, the Court agrees with this proposition. However, the Court parts company with Defendant in describing his statements as conclusions of law rather than an admissions of fact. For example, Defendant could have simply stated he was not in breach of the agreement or perhaps there was some defect with the agreement rendering it unenforceable. In all likelihood most commentators would agree that these examples constitute statements of law. However, this is not what the Defendant said. Instead Defendant said, repeatedly, that he admits owing the Plaintiff \$36,000.00. It is difficult to understand how these statements could be described as being anything other than admissions.

It should be noted that this Opinion and Order is applicable only to the issue of the \$36,000.00 rent that Defendant admits owing Plaintiff. This ruling is not to affect any of the other matters averred in the Complaint nor is it to be interpreted as the Court's position on the remaining issues.

ORDER

For the reasons described in the preceding Opinion, Plaintiff's Motion for Partial Judgment on the Pleadings is GRANTED. Defendant is ordered to tender payment in the amount of \$36,000.00 to Plaintiff, or his agent(s). This ruling is not to affect any of the other matters averred in the Complaint nor is it to be interpreted as the Court's position on the remaining issues.

BY THE COURT

William S. Kieser, Judge

cc: Court Administrator
Scott T. Williams, Esquire
Thomas C. Marshall, Esquire
Judges
Jeffrey L. Wallitsch, Esquire
Gary L. Weber, Esquire (Lycoming Reporter)